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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/089,587

01/25/2005

Stephen Currid

232.7548USU

2546

7590

02/05/2008

Paul Greeley  
Ohlandt Greeley Ruggiero & Perle  
One Landmark Square  
10 th Floor  
Stamford, CT 06901-2682

EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

02/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/089,587

Applicant(s)

CURRID, STEPHEN

Examiner

Ramesh Krishnamurthy

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,8,9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,8,9 and 11-14 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-943)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This office action is responsive to communications filed November 19, 2007.

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

It is noted that the instant declaration uses "examination" in place of "patentability" in connection with duty to disclose statement.

**Claims 1 – 5, 8, 9 and 11 – 14 are pending.**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara et al. in view of BE 669,967.

O'Hara et al. discloses (Figs. 1 - 5) a non-return device comprising: Flexible impervious wall members (7,9) having complementary shapes; a support (13, 14) holding said wall members spaced apart at an upstream or inlet end (near (12)); wherein the device comprises a tubular body portion (3) surrounding the wall members.

The patent to O'Hara et al. discloses the claimed invention with the exception of explicitly disclosing a tubular outlet portion extending from the outlet end of the tubular portion to have a diameter different therefrom with radially offset axes.

The document BE '967 discloses (Figs. 1, 2) a non-return device wherein a tubular outlet portion (9) extending from the outlet end of a tubular portion (2) to have a diameter different therefrom with radially offset axes, thereby providing a desired flow through the device.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in O'Hara et al. a tubular outlet portion extending from the outlet end of the tubular portion to have a diameter different therefrom with radially offset axes, for the purpose of providing a desired flow through the device.

It is noted that in BE'967 the outlet portion's (near (9)) radius is indeed smaller than at the upstream end (near (14)) and that a wall portion of the housing is congruous with the wall portion of the outlet end so as to define a generally uninterrupted flow surface for discharging fluid.

4. Claims 5, 8, 9 and 11 - 14 are allowed.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims rejected above have been considered but are not persuasive. Applicant's arguments concerning the O'Hara reference are persuasive and the rejections based thereon as applied to claims 11 - 14 are withdrawn. However, claims 1 - 4 do not recite the limitations pertaining to the thickness to width ratio of the wall members and thereby rendering moot any argument

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pertaining thereto. In regard to De Bruyne reference, it is noted that the teaching taken therefrom has to do with the radially offset wall in the outlet portion of the valve and not to the type of the valve as argued by the applicant. Thus, the rejection set forth above of claims 1 - 4 are indeed proper and accordingly **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson, can be reached on (571) 272 – 4887. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ramesh Krishnamurthy/  
Primary Examiner, Art Unit 3753